

## **APPENDIX I TO FINAL PRETRIAL ORDER**

### **Jury Selection Process in Civil Cases** **Assigned to Judge Walton**

- (1.) Proposed voir dire questions must be submitted in writing with the Joint Pretrial Statement as an addenda. Failure to comply with this requirement will be deemed a waiver and/or sanctions will be imposed if the Court decides to entertain untimely voir dire requests.
- (2.) The Court will decide what voir dire questions will be asked during the pretrial conference.
- (3.) The determination of how many peremptory challenges each party will have will be determined at the final pretrial conference based on 28 U.S.C. § 1870.
- (4.) On the scheduled trial date, after consulting with counsel to determine the parties' readiness, an appropriate number of potential jurors will be obtained from the Jury Office.
- (5.) When the jury arrives from the Jury Office, counsel will be provided with the written list of the venire.
- (6.) The jurors will be seated in the courtroom by the courtroom deputy clerk in the order in which they appear on the jury list. The seating arrangement will start with the first juror being placed in the first center aisle seat on the first row of seats located on the right side of the courtroom as viewed from the bench looking toward the rear of the courtroom. Subsequent jurors, in the order listed on the jury list, will be seated in sequential order on the first row until all seats are occupied. Thereafter, jurors will be seated in the same order on additional rows until all jurors are seated. The same seating arrangement will be employed on the left side of the courtroom if that space is needed to seat the entire venire.

(7.) Once all of the jurors are seated, they will be placed under oath and the judge will make a statement about jury service and its importance. The judge will then ask the jurors collectively the voir dire questions the court agreed to ask the venire. After each question, those jurors who have affirmative answers will be required to stand and indicate only their individual juror numbers, so that the need to obtain further responses from them to the various questions to which they need to respond can be noted.

(8.) After all of the voir dire questions have been asked and the numbers of the jurors who have affirmative responses have been recorded, the entire venire will be taken to another courtroom with instructions that they should not discuss the case or the voir dire questions until they are individually returned to the courtroom for further questions. The jurors who had an affirmative response will then be returned to the courtroom for individual questioning by the judge and counsel. In addition, jurors who failed to indicate that they had responses to any of the questions that were asked will be returned individually to the courtroom for individual questioning because in this judge's experience jurors do not always respond when they should in a group setting, but do indicate that they have responses when they are questioned individually.<sup>1</sup>

(9.) Strikes for cause will be entertained immediately after the individual questioning of each juror.<sup>2</sup>

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<sup>1</sup>In the event another courtroom is not available to house the venire when the individual questioning is conducted, the individual inquiries will be conducted in the Court's jury room.

<sup>2</sup>This will occur either in the jury room or in the courtroom depending upon whether another courtroom is available to the Court while the jury selection process is being

(10.) After all strikes for cause have been entertained, the jury panel will be returned to the courtroom.

(11.) Depending upon the number of jurors the court and the parties agreed will hear the case, that number of jurors will be placed in the jury box in designated seats in the order in which they appear on the jury list.

(12.) The parties will be provided a document upon which they can record their respective peremptory strikes. The order for the strikes will commence with the plaintiff followed by defendant during each round of strikes. A pass will be counted as a strike and if both parties pass on the same round, the selection process will be deemed completed. If there are multiple parties on either side (plaintiff or defendant), all parties on that side will have to agree not to exercise a strike in order for there to be a pass on that round by that side.

(13.) Parties are permitted to exercise their peremptory strikes on the jurors who were placed in the jury box and they can also strike into the panel, but only to the extent that there is the possibility that a juror in the panel could be seated in the jury box based on the number of outstanding peremptory strikes.

(14.) Jurors who were stricken will not be excused from the courtroom until the entire selection process has been completed, including the resolution of any Batson challenges.

(15.) In the event a Batson challenge is raised and found to be meritorious, counsel are forewarned that one remedy the court may employ is to impanel the improperly stricken juror on the jury and preclude the party who improperly exercise the strike from excluding

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conducted.

that juror. An array of other remedies are available to the court, including the imposition of monetary sanctions, to address Batson violations. Counsel should therefore be mindful of their obligation not to exercise peremptory challenges that seek to exclude jurors for racial or gender reasons.